

News from Ed Markey

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MARKEY ASKS PRESIDENT BUSH TO DECLARE HIMSELF ON TORTURE PROVISIONS IN HOUSE REPUBLICAN 9/11 BILL

*Congressional Republicans' Seek to Expand U.S. Authority to
Outsource Torture of Prisoners*

Washington, D.C.—Representative Edward J. Markey (D-MA), a senior Democratic member of the House Homeland Security Committee, asked President Bush to comment on a provision in H.R. 10, the House Republicans' legislation to implement the recommendations of the 9/11 Commission, that would legitimize the practice of "extraordinary rendition," in which terrorist suspects are secretly deported for interrogation to foreign countries known to use torture to interrogate prisoners. Rep. Markey has asked for the President's response before Congress votes on the bill later this week.

"Back in June, the President said that 'the values of this country are such that torture is not part of our soul and our being,'" said Rep. Markey, adding, "I agree. That's why I'm asking the President whether he agrees with the Justice Department spokesman who told the press last week that the Administration supports the torture outsourcing provisions of the Republican 9/11 bill."

Rep. Markey has been a longstanding critic of the extraordinary rendition, and has introduced legislation, H.R. 4674, would bar the practice of extraditing or deporting foreign persons to countries where they face torture.

The provisions in the Republican 9/11 bill that Rep. Markey referred to are found in Sections 3032 and 3033 of H.R. 10. Under these provisions, the Secretary of Homeland Security has discretion to revise regulations prescribed pursuant to the obligations the U.S. assumed under the U.N. Convention Against Torture. The provision further reserves the right for the Secretary of Homeland Security to remove an alien to "any country whose government will accept the alien into that country" (Section 3033). In essence the Secretary has unfettered power to send a detainee to any country, regardless if the detainee is not a citizen of that country and regardless if the country has a known record of torture.

These provisions were not part of the 9/11 Commission's recommendations, and in fact the Commission called for the U.S. to "offer an example of moral leadership in the world, committed to treat people humanely, abide by the law, and be generous and caring to neighbors." Human rights groups have publicly voiced their concerns that the "clear and compelling evidence" standard may be extremely difficult or impossible for a detainee to satisfy.

These provisions not only violate the U.N. Convention Against Torture, but they violate the Senate's understanding of the treaty when it ratified it in 1994: That the United States understands the phrase, "where there are substantial grounds for believing that he would be in danger of being subjected to torture," as used in Article 3 of the Convention, to mean "it is more likely than not that he would be tortured." Section 3032 (3) of the Republicans' 9/11 bill shifts the burden of proof to the person being deported or rendered to establish "clear and compelling evidence."

Last week, a Justice Department spokesman expressed support for the torture outsourcing provisions contained in the Republican Leadership's 9/11 bill. Markey intends to offer an amendment to strike out the torture outsourcing provisions from the Republican bill and replace them with restrictions on extraordinary renditions as outlined in his bill H.R. 4674. In his letter to President Bush, Rep. Markey requested a review of both sections 3032 and 3033 of H.R. 10 and H.R. 4674.

Markey concluded, "Before the House votes on the Republican leadership's torture outsourcing proposal, we need to hear from the President whether this type of legislation reflects the values he talked about in his June statement against torture."